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Regulatory Alert
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RBI relaxes norms on External Commercial Borrowings Policy

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Background

The Reserve Bank of India (RBI) allows Indian companies to raise foreign loans through the External Commercial Borrowings (ECB) mechanism. RBI has provided the necessary framework through Master Directions.

With a view to relaxing various elements of the ECB framework of the Master Directions, RBI has on 27 April 2018, made amendments in respect of:

(a) all-in-cost of ECB framework and Rupee Denominated Bonds (RDBs);

(b) ECB liability to Equity Ratio;

(c) list of eligible borrowers for ECB; and

(d) end use requirements of ECB.

This alert provides an overview of the key changes in the RBI Master Directions, relating to ECB.

Key Changes

Streamlining all-in-cost for ECB and RDBs:

Erstwhile provision had prescribed separate all-in-cost ceilings for different tracks in ECBs and RDBs which were linked to maturity period. Now, a uniform all-in-cost ceiling of 450 basis points over the benchmark rate is stipulated irrespective of the maturity period of ECB. Following are the revised benchmark rates for all-in-cost ceiling:

- For Track I and II ECB: 6 month USD LIBOR (or applicable benchmark for respective currency)
- For Track III ECB and RDB: Prevailing yield of the Government of India securities (G-Sec) of corresponding maturity for rupee denominated ECBs and RDBs.

Enhancing leverage of ECB liability:

RBI has enhanced ECB Liability to Equity Ratio for ECB raised from direct foreign equity holder under automatic route to 7:1 (as against 4:1 earlier).

However, this revised ratio will not be applicable if total of all ECBs raised by an entity is up to USD 5 million or equivalent.

Expansion of eligible borrowers for the purpose of ECB:

RBI now permits the following entities as borrowers to obtain ECB:

a) Housing Finance Companies, regulated by the National Housing Bank (NHB), may avail ECB under all tracks.

b) Port Trusts constituted under the Major Port Trusts Act, 1963 or Indian Ports Act, 1908 may avail ECBs under all tracks.

   Such borrowing entities need to have board approved risk management policy and keep their ECB exposure hedged 100% at all times for ECB raised under Track I.

c) Companies engaged in the business of Maintenance, Repair and Overhaul, and freight forwarding may raise ECB only in Indian Rupees (INR).

Streamlining end use of ECB:

Earlier, under Track I and Track II of ECB route, RBI had prescribed the sectors wherein ECB can be utilized, while under Track II, RBI had prescribed the list where ECB proceeds cannot be used.

The liberalized framework provides only a negative list for all tracks where ECB proceeds cannot be used. This negative list for all tracks is as under:

a. Investment in real estate or purchase of land except when used for affordable housing as defined in the Harmonised Master List of Infrastructure Sub-sectors notified by Government of India, construction and development of SEZs and industrial parks/integrated townships;

b. Investment in capital markets; and

c. Equity investment.

For Track I and Track III following end-use restriction will also apply except when ECB is raised from direct and indirect equity holders or from a group company, and provided the loan is for a minimum average maturity of 5 years:

d. Working capital purposes;

e. General corporate purposes; and

f. Repayment of Rupee loans.

On-lending to entities for the above activities from (a) to (f) is prohibited under all tracks.

Conclusion

The amendments to the ECB Policy are aimed at simplification of processes and broadens eligible borrower list which may help entities in housing and infrastructure sector to raise funds at competitive rates.
Relaxing the ECB liability to equity ratio should permit better intra group funding management and improve ease of doing business in India for foreign companies operating in India through subsidiaries.

Source: RBI Circular No RBI/2017-18/169, A.P. (DIR Series) Circular No. 25 dated 27 April, 2018

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